

**DECISION**

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

McConnell

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FILE: B-213270

DATE: October 25, 1983

MATTER OF: Jarrett S. Blankenship Co.

**DIGEST:**

1. A protest is untimely where filed with GAO more than 10 working days after the protester learns of initial adverse agency action on its earlier protest filed with the contracting agency.
2. A late mailed bid must be rejected unless one of the limited conditions set forth in the solicitation for consideration of late mailed bids is met.

Jarrett S. Blankenship Co. protests the rejection of its late bid under solicitation No. P-83-207 issued by the Panama Canal Commission. The solicitation sought bids for certain air conditioning equipment. Blankenship contends that the contracting officer should have extended the bid opening date, in part because of an alleged error in the solicitation, and should not have rejected the firm's late bid.

We dismiss the protest in part and summarily deny it in part.

Blankenship states that it telephoned the contracting officer on September 6, 1983, and requested an extension of the bid opening date due to an alleged typographical error in the solicitation. The contracting officer refused, Blankenship continues, and the firm thereafter mailed its bid, which arrived 4 hours after the scheduled bid opening time on September 9. The contracting officer subsequently rejected the firm's bid as late. Blankenship believes that the contracting officer should not have held the firm accountable for its late bid. We disagree.

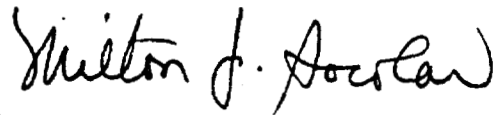
We will not consider the matter to the extent that Blankenship protests improprieties in the solicitation. Under section 21.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 21 (1983), a protest against an apparent error in a solicitation, or against the bid opening date, must be filed with the contracting agency or our Office before bid opening. Section 21.2(b)(2) mandates that, in instances

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where a protest has been filed initially with the contracting agency, any subsequent protest to this Office must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action on the original protest. If we assume that Blankenship timely protested to the contracting officer concerning the solicitation on September 6 (otherwise, the protest to our Office, filed after bid opening, is untimely under section 21.2(b)(1)), the contracting officer clearly denied the protest on the same date by refusing to extend the scheduled bid opening. Any follow-up protest to this Office, therefore, had to be filed within 10 working days of the contracting officer's denial, which constituted adverse agency action. Blankenship filed its protest here on October 4, or 20 working days after the denial. This portion of Blankenship's protest therefore is untimely. See Vanguard Management Corporation, B-210705, February 17, 1983, 83-1 CPD 172.

In addition, it is the bidder's responsibility to assure timely arrival of its bid, and late receipt requires rejection unless one of the limited conditions set forth in the solicitation for consideration of late bids is met. See Geronimo Service Company, B-199864, October 28, 1980, 80-2 CPD 325. Specifically, a late mailed bid may be considered only if it was sent either by certified or registered mail at least 5 days before bid opening or, if sent by ordinary mail, where the sole reason for its late arrival was mishandling by the government after receipt. Utah Geophysical Inc., B-209503, March 22, 1983, 83-1 CPD 288. There is no evidence that either condition existed in this case, and rejection of Blankenship's late bid therefore was proper.

The protest is dismissed in part and summarily denied in part.

*for*   
Comptroller General  
of the United States